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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/593,534	09/19/2006	John Hatrick-Smith	550639.00009	4914
26710 7590 12/08/2010 QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497				
EXAMINER				
BAKER, LORI LYNN				
ART UNIT		PAPER NUMBER		
3751				
NOTIFICATION DATE		DELIVERY MODE		
12/08/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pat-dept@quarles.com

Office Action Summary

Application No.

10/593,534

Applicant(s)

HATRICK-SMITH, JOHN

Examiner

Lori Baker

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25, 28-34, 36, 38-42 and 46-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25, 28-34, 36, 38-42 and 46-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's arguments with respect to claims 25, 28-34, 36, 38-45 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 25, 46 and 49 are objected to because of the following informalities: beginning at line 11, the recitation, "*and support from the shower base the return panel or panels along said foot of the or each return panel*" and "*between the foot of the or each return panel*", is unclear. Appropriate correction is required.

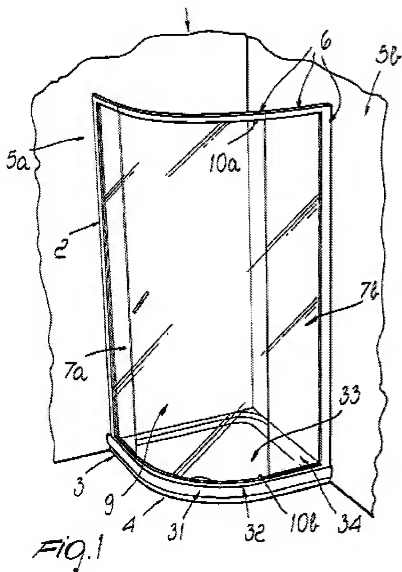
Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari in view of Payne. The Montanari reference discloses a shower enclosure comprising: a door 9 and return panels 7a/b on both sides of the door; a shower base 3 including a floor 33; a waste outlet 35; a drain channel 34; and a return panel 7a, as claimed. Re claim 25, the "non-sealed gap" is depicted in Fig. 8 Re claim 28, the "non-sealed gap" is depicted in Figure 1 below (see col. 4, lines 5-17 and 28-55). Montanari discloses all of the limitations except for the formations at the edge. Attention is directed to the Payne reference which discloses an analogous shower which further includes a base 1 having a formation 12. Therefore, in consideration of

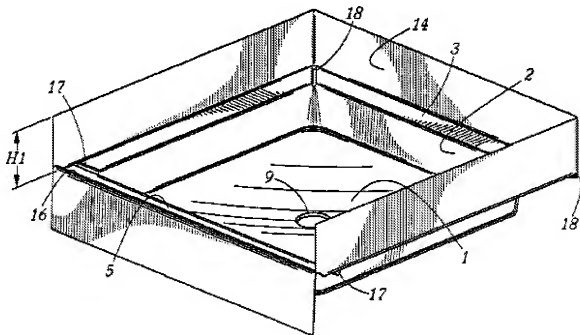
Payne, it would have been obvious to one of ordinary skill in the shower art to associate a formation with the Montanari base in order to facilitate wall support.



5. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari and Payne as applied to claim 25 above and further in view of Zaccai et al. The rejection from the previous office action is incorporated herein.

6. Claims 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari and Payne as applied to claim 25 above and further in view of Jurek et al '518. The rejection from the previous office action is incorporated herein.
7. Claims 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari and Payne as applied to claim 25 above and further in view of Gerloff. The rejection from the previous office action is incorporated herein.
8. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari and Payne as applied to claim 25 above and further in view of McAllister '571. The rejection from the previous office action is incorporated herein.
9. Claims 36 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari, Payne and Jurek as applied to claim 31 above. The rejection from the previous office action is incorporated herein. See paragraph 4 above for newly added limitations.
10. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari, Payne and Jurek as applied to claim 36 above and further in view of Zaccai. The rejection from the previous office action is incorporated herein.
11. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari, Payne and Jurek as applied to claim 36 above and further in view of Gerloff. The rejection from the previous office action is incorporated herein.
12. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari, Payne and Jurek as applied to claim 36 above and further in view of McAllister. The rejection from the previous office action is incorporated herein.

13. Claims 46 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari and Payne and Jurek as applied to claims 25 and 36 above and further in view of Torres (US Patent 7490371). Although Montanari in view of Payne does not have a formation in the form of a step, as claimed, attention is directed to Torres. An analogous art, Torres reference teaches in figure 3, a formation having a step 2, 3 formed at a peripheral edge of the floor of the shower base to receive a foot of the return panel from the shower base. Therefore, in consideration of Torres, it would have been obvious to one of ordinary skill in the shower art to associate a formation comprising a step with the base in order to support the panel/door away from the base surface.



14. Claims 47 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Montanari and Payne as applied to claim 25 above and further in view of Lewis

(PG PUB 20060182926. Although Montanari in view of Payne do not disclose cut-outs in the base, as claimed, attention is directed to Lewis. The Lewis reference teaches in the figure below, a cut-out 6, 13, 14, 4 in the analogous shower base. Therefore, in consideration of Lewis, it would have been obvious to one of ordinary skill in the shower art to associate cut-outs with the base in order to support the panel/door away from the base surface.

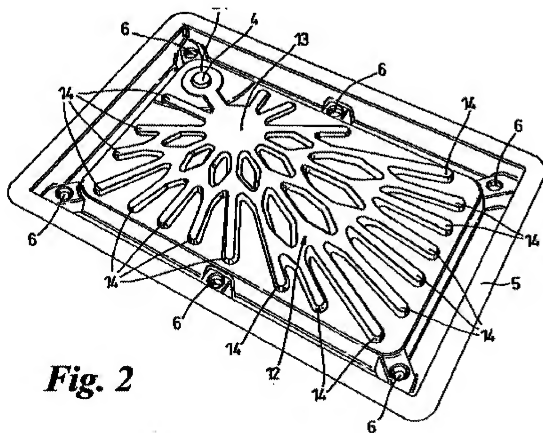


Fig. 2

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lori Baker whose telephone number is (571) 272-4971. The examiner can normally be reached on M-F, 8am-5pm. For interview requests, please contact the examiner directly and submit PTO Form 413A.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lori Baker/
Primary Examiner, Art Unit 3751